

**ASSEMBLY BILL**

**No. 2654**

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**Introduced by Assembly Member Hill**

February 19, 2010

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An act to amend Section 17533.6 of the Business and Professions Code, relating to solicitations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2654, as introduced, Hill. Solicitations.

Existing law makes it unlawful for any person, firm, or corporation, or association that is a nongovernmental entity to solicit funds or information by means of a mailing, electronic message, or Internet Web site that contains any term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement, unless the nongovernmental entity has an expressed connection with a state or local entity or unless the solicitation and mailing contains a specified disclosure that it is not a governmental document. Existing law also requires a business that solicits the purchase of, or payment for, a service by means of an unsolicited mailing offering to assist the recipient in dealing with a state or local governmental agency to disclose on the envelope and in the mailing that the business is not a governmental agency and is not associated with the governmental agency referenced. A violation of these or other provisions related to advertising is a crime.

This bill would require those disclosures to be conspicuously posted on the top of the first page of the solicitation or mailing. Because a violation of this provision would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17533.6 of the Business and Professions

2 Code is amended to read:

3 17533.6. (a) It is unlawful for any person, firm, corporation,  
4 or association that is a nongovernmental entity to solicit  
5 information, or to solicit the purchase of or payment for a product  
6 or service, or to solicit the contribution of funds or membership  
7 fees, by means of a mailing, electronic message, or Internet Web  
8 site that contains a seal, insignia, trade or brand name, or any other  
9 term or symbol that reasonably could be interpreted or construed  
10 as implying any state or local government connection, approval,  
11 or endorsement, unless the requirements of paragraph (1) or (2)  
12 have been met, as follows:

13 (1) The nongovernmental entity has an expressed connection  
14 with, or the approval or endorsement of, a state or local government  
15 entity, if permitted by other provisions of law.

16 (2) The solicitation meets both of the following requirements:

17 (A) The solicitation bears on its face, in conspicuous and legible  
18 type in contrast by typography, layout, or color with other type on  
19 its face, the following notice:

20 “THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED  
21 OR ENDORSED BY ANY GOVERNMENTAL AGENCY, AND  
22 THIS OFFER IS NOT BEING MADE BY AN AGENCY OF  
23 THE GOVERNMENT.”

24 (B) In the case of a mailed solicitation, the envelope or outside  
25 cover or wrapper in which the matter is mailed bears on its face  
26 in capital letters and in conspicuous and legible type, the following  
27 notice:

28 “THIS IS NOT A GOVERNMENT DOCUMENT.”

29 (b) Except as provided in subdivision (c), any business that  
30 solicits the purchase of, or payment for, a service by means of an

1 unsolicited mailing that offers to assist the recipient in dealing  
2 with a state or local governmental agency shall do both of the  
3 following:

4 (1) State on the envelope and in the mailing that the business  
5 is not a governmental agency and is not associated with the  
6 governmental agency referenced.

7 (2) Include in the mailing the contact information for the  
8 governmental agency referenced.

9 (c) Subdivision (b) shall not apply if either of the following  
10 requirements has been met:

11 (1) The business has an expressed connection with, or the  
12 approval or endorsement of, a state or local governmental entity,  
13 if permitted by other provisions of law.

14 (2) The business has an “established business relationship,” as  
15 defined in Section 1798.83 of the Civil Code, with the recipient.

16 *(d) The notice or statement required by subparagraph (A) of*  
17 *paragraph (2) of subdivision (a) or by paragraph (1) of subdivision*  
18 *(b) shall be conspicuously posted on the top of the first page of*  
19 *the solicitation or mailing.*

20 SEC. 2. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution because  
22 the only costs that may be incurred by a local agency or school  
23 district will be incurred because this act creates a new crime or  
24 infraction, eliminates a crime or infraction, or changes the penalty  
25 for a crime or infraction, within the meaning of Section 17556 of  
26 the Government Code, or changes the definition of a crime within  
27 the meaning of Section 6 of Article XIII B of the California  
28 Constitution.